

ADVISORY OPINION NO. 97-25

Issued on August 7, 1997 by the

WEST VIRGINIA ETHICS COMMISSION

PUBLIC SERVANT SEEKING OPINION

A Public Employee/Member of an Association

OPINION SOUGHT

Is it a violation of the Ethics Act for a public servant to solicit contributions to defray the cost of a conference designed to educate other public servants about the needs of his agency?

FACTS RELIED UPON BY THE COMMISSION

The requester is a public servant who belongs to an Association of similar public servants. Each year the Association holds a conference to inform and educate various public servants on current affairs affecting the public agencies which employ the Association members. The conference will also introduce speakers from surrounding states to provide insight into management techniques and hold panel discussions on the various problems facing the Association members.

In the past, sponsors of this conference included colleges, the Association members' public agencies, and major corporate users of these agencies. The requester would like to solicit contributions from the corporate users in order to obtain funding for this years' conference. These donations, in conjunction with the registration fees, would be used to cover expenses such as the rental of a hall, a banquet and nominal gifts for the approximately 15 speakers.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states in pertinent part that...a public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family...

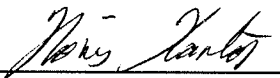
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The Ethics Act, at WV Code 6B-2-5(c)(1), prohibits public servants from soliciting gifts unless they are intended for a "charitable purpose" from which the public servant or members of his immediate family derives no direct pecuniary benefit. The Act does not define this term and where it is unclear whether a purpose is charitable, the Commission must make a determination on a case by case basis.

In this instance, the requester would like to solicit for donations to defray the cost of the Association's annual conference. This solicitation is similar to other cases previously decided by the Ethics Commission. In Advisory Opinion 95-18 the Commission held that it would be a violation of the Ethics Act for employee of a State tax agency to solicit sponsors for a regional conference. The Commission also determined in Advisory Opinion 96-36 that a conference which is primarily concerned with maintaining and enhancing the professional competence of its attendees is not a charitable purpose.

Similarly, the requester's conference is designed to inform and educate various public servants on current affairs affecting the public agencies which employ the Association members, provide insight into management techniques and discuss various problems facing the Association members. The Commission finds, as in the two opinions cited above, that this would not be considered a "charitable purpose" as that term is used in the Ethics Act. Therefore, it would be a violation of WV Code 6B-2-5(c)(1) for the requester to solicit donations to fund the Association's annual conference.

Finally, the Commission has consistently held that any Association which is comprised of public servants must conform to the ethical requirements of the Ethics Act. Public servants may not, through a surrogate like the private Association, engage in activities prohibited by the Ethics Act. Both the Association and its members are bound by the Act. Consequently, solicitation by an Association comprised of public servants would also be a violation of the Ethics Act, since the annual conference would not be considered a charitable purpose.



Chairman